

## **I. (a) PLAINTIFFS**

**FOR OFFICE USE ONLY**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

KENNETH BOYD  
3135 Hemlock Farms  
Hawley, PA 18423,

Plaintiff

VS.

HAHN AUTOMOTIVE WAREHOUSE  
and LESTER GROME,

## Defendants

: CIVIL ACTION NO:

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: JURY TRIAL DEMANDED

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## COMPLAINT

Plaintiff, Kenneth Boyd, by and through his Counsel, Thomas W. Munley,  
Esquire, complains the above-named Defendants as follows:

## THE PARTIES

1. The Plaintiff, Kenneth Boyd (hereinafter "Boyd"), is an adult and competent individual who resides at 3135 Hemlock Farms, Hawley, Pike County, Pennsylvania 18423.
2. The Defendant, Hahn Automotive Warehouse (hereinafter "Hahn"), is a corporation and existing under the laws of the State of New York, with its

principal place of business located at 415 West Main Street, Rochester, New York 14608.

3. The Defendant, Lester Grome (hereinafter “Grome”), is an adult and competent individual who resides at 120 Briggs Street, Syracuse, New York 13208.

### **JURISDICTION**

4. Jurisdiction is based on 28 U.S.C. §1332(a)(1) as this civil action involves a controversy between entities and/or citizens of different states, and the amount in controversy exceeds seventy-five thousand dollars (\$75,000.00)

### **THE CRASH JULY 22, 2021**

5. On Thursday, July 22, 2021, at approximately 12:48am, Boyd was driving his 2011 Ford-ECP automobile south in the right lane of RT 739 on Blooming Grove Township, Pike County, Pennsylvania.
6. At the same time, Grome was driving a large truck directly behind Boyd in the right lane of RT 739.
7. At all relevant times, Hahn owned the large truck the Grome was driving.
8. At all relevant times, Grome drove the large truck with knowledge and consent of Hahn.

9. At all relevant times, Grome was an employee and/or agent of Hahn, and drove the large truck in the scope and course of his employment and/or agency for Hahn.
10. Grome violently sideswipe Boyd's vehicle with his large truck by attempting to pass over the double yellow lines.
11. The crash was caused solely by the negligence of both Defendants.
12. As a result of the crash, Boyd sustained multiple injuries, including low back, neck pain, cervicalgia, thoracic spine, headaches, right leg and left leg injuries.

### **COUNT I**

**Kenneth Boyd, Plaintiff**

**and**

**Hahn Automotive Warehouse and Lester Grome, Defendants**

13. Boyd incorporates paragraphs 1 through 12 above as fully as if the same were set forth length herein.
14. Grome, acting as the employee and/or agent of Hahn, was negligent in his operation of the large truck as follows:
  - a) Causing the large truck to leave the right southbound of RT 739, enter into the left southbound and strike Boyd's automobile;
  - b) Failing to keep the large truck under constant control;

- c) Being inattentive, failing to keep a proper lookout and failing to observe and avoid the Boyd's automobile;
- d) Failing to yield the right-of-way to the Boyd's automobile;
- e) Failing to ensure that the left southbound lane of RT 739 was clear before causing the large truck to change lanes;
- f) Driving the large truck at a speed greater than was reasonable and prudent under the circumstances in violation of 75 Pa. C.S.A. §3361;
- g) Endangering the lives and well-being of Boyd in violation of 18 Pa. C.S.A §2705;
- h) Operating the large truck with careless disregard for the safety of Boyd in violation of 75 Pa. C.S.A. §3714; and
- i) Driving the large truck with wanton disregard for the safety of Boyd in violation of 75 Pa. C.S.A. §3736.

15. As a result of both Defendants' negligence, Boyd required medical care and incurred medical expenses, and he will likely continue to require medical care and incur medical expenses in the future.
16. As a result of both Defendants' negligence, Boyd missed time from work and incurred lost wages.

17. As a result of both Defendants' negligence, Boyd endured physical and mental pain and suffering, and he will continue to endure physical and mental pain and suffering for an indefinite period of time into the future.
18. As a result of both Defendants' negligence, Boyd suffered a loss of ability to participate in his life's normal activities and pleasures,, and he will continue to suffer a loss of ability to engage in his life's normal activities and pleasure for an indefinite period of time into the future.
19. As a result of both Defendants' negligence, Boyd suffered embarrassment and humiliation, and he will continue to suffer embarrassment and humiliation for an indefinite period of time into the future.

WHEREFORE, Plaintiff Kenneth Boyd respectfully requests that the Court enter judgment in his favor against Defendants in an amount in excess of seventy-five thousand dollars (\$75,000.00) plus cost and delay damages pursuant to Pennsylvania Rule of Civil Procedure 238.

## **COUNT II**

### **Kenneth Boyd, Plaintiff v. Hahn Automotive Warehouse Defendants**

20. Plaintiff incorporates paragraphs one (1) through nineteen (19) above as fully as if the same were set forth length herein.
21. Hahn was negligent in entrusting its large truck to Grome as follows:

- a) Entrusting its large truck to Grome when Hahn knew or should have known of a real and appreciable risk that Grome would operate the truck in an unsafe manner;
- b) Failing to properly investigate or consider Grome's driving record and ability before entrusting its large truck to him;
- c) Failing to implement proper procedures, policies and/or safeguards to ensure that its employees and/or agents were safe and competent drivers before entrusting its commercial vehicle to them;
- d) Failing to implement proper procedures, policies and/or safeguard to ensure that its employees and/or agents knew and obeyed the mandates of the Pennsylvania Motor Vehicle Code and the Federal Motor Carrier Safety Regulations; and
- e) Failing to require its drivers to familiarize themselves with its commercial motor vehicles and local roadways before operating those vehicles on those roadways.

WHEREFORE, Plaintiff Kenneth Boyd respectfully requests that the Court enter judgment in his favor against Defendants in an amount in excess of seventy-five thousand dollars (\$75,000.00) plus cost and delay damages pursuant to Pennsylvania Rule of Civil Procedure 238.

**COUNT III**

**VICARIOUS LIABILITY**

**Kenneth Boyd vs. Hahn Automotive Warehouse**

22. Paragraphs one (1) through twenty-one (21) of the Complaint are incorporated herein by reference.
23. As the master, principal and/or employer of Grome, Hahn is vicariously liable for all the tortious conduct of its agent, workman, servant, or employees, Hahn, as alleged herein, is also vicariously liable for Grome's tortious conduct since Grome was operating the large truck within the scope of his employment for Hahn, on highways, operating said large truck under the authority of Hahn.
24. Hahn, is therefore liable to Boyd, not only for compensatory damages for his injuries, harm, damages and losses, as alleged herein, but also for the punitive damages to be awarded which arise from the reckless conduct of Grome.

WHEREFORE, Plaintiff Kenneth Boyd respectfully requests that the Court enter judgment in his favor against Defendants in an amount in



excess of seventy-five thousand dollars (\$75,000.00) plus cost and delay damages pursuant to Pennsylvania Rule of Civil Procedure 238.

**COUNT IV**

**NEGLIGENT ENTRUSTMENT**

**Kenneth Boyd vs. Hahn Automotive Warehouse**

25. Paragraphs one (1) through twenty four (24) of the Complaint are incorporated herein by reference.
26. At the time of the above referenced automobile accident, Grome was the permissive operator of the 2016 large truck, involved in the accident, which was owned by Hahn.
27. The incident from which Boyd, sustained serious injuries was a direct result of the negligence and carelessness of Hahn, in that Hahn failed to monitor and control the safe and careful operation of its vehicle.
28. As a direct result of Hahn's, negligence, Boyd incurred medical expenses and other miscellaneous charges.

WHEREFORE, Plaintiff Kenneth Boyd respectfully requests that the Court enter judgment in his favor against Defendants in an amount in

excess of seventy-five thousand dollars (\$75,000.00) plus cost and delay damages pursuant to Pennsylvania Rule of Civil Procedure 238.

**COUNT V**

**NEGLIGENT TRAINING**

**Kenneth Boyd vs. Hahn Automotive Warehouse**

29. Paragraphs one (1) through twenty eight (28) of the Complaint are incorporated herein by reference.
30. Hahn, as noted previously within this Complaint, owed a duty of care to Boyd. Hahn breached its duty of care by negligently training, instructing and educating its employees on the safety and the duty of care owed to citizens and other motor vehicles on the road.
31. On the day of the accident in question, all employees, agents, workmen and servants were hired and trained by Hahn.
32. The careless, negligent and indifferent conduct on the part of Hahn, included, but is not limited to, the following:
  - a. failing to provide adequate and appropriate supervision and appropriate assistance devices to prevent accidents;

- b. failing to provide an environment that was free of accident hazards over which Hahn had control to provide appropriate training to employees when operating its motor vehicles to prevent accident and injuries to persons including, but not limited to Boyd;
- c. failing to identify and evaluate the hazards and risks of Boyd, related to accidents, and implement interventions including adequate supervision and appropriate assistive devices to reduce those hazards and risks;
- d. failing to coordinate training programs to improve employee skills and to enhance employee performance;
- e. acting in a grossly negligent manner, with reckless indifference to the rights and safety of the motor vehicle, public and persons, including, but not limited to Boyd;
- f. failing to develop, implement and/or enforce policies and procedures for review and revision of said employees responses to traffic scenarios on roadways;
- g. failing to develop, implement and/or enforce policies and procedures for monitoring and evaluating their employees' responses to traffic scenarios on roadways;

- h. failing of Hahn to develop, implement and/or enforce policies and procedures including screening, training, prevention, identification, investigation, protection and reporting misuse, neglect and harm of the vehicle speeds and vehicle control while in highway traffic; and
  - i. failing to develop, implement and/or enforce policies and procedures for the drivers to monitor their vehicles for hazardous scenarios that may arise for motor vehicles and persons including, but not limited to, Boyd.
- 33. Based upon the aforementioned negligent acts by Hahn, its employees and/or staff, Hahn caused Boyd to sustain severe and life-threatening injuries as listed within this Complaint.

WHEREFORE, Plaintiff Kenneth Boyd respectfully requests that the Court enter judgment in his favor against Defendants in an amount in excess of seventy-five thousand dollars (\$75,000.00) plus cost and delay damages pursuant to Pennsylvania Rule of Civil Procedure 238.

**COUNT VI**

**NEGLIGENT HIRING, SUPERVISION AND RETENTION**

**Kenneth Boyd vs. Hahn Automotive Warehouse**

34. Paragraphs one (1) through thirty-three (33) of the Complaint are incorporated herein by reference.

35. Hahn failed to take corrective measures and/or failed to hire qualified staff members to accommodate the needs of the aforementioned roadways for the safety of the persons traveling within the vicinity of a large truck, including, but not limited to, Boyd.

36. Hahn knowingly placed the safety of Boyd at risk, by failing to hire adequate staff and in turn, had a primary goal of maximizing profits over maximizing the knowledge and talent of employers operating their motor vehicles on the roadway, causing harm to anyone in the vicinity of an operating box truck including, but not limited to, Boyd.

37. For the reasons set forth above, Hahn was negligent, careless, and reckless in hiring, supervising, and selecting their employees, all or some of whom were incompetent and/or unskilled to perform essential functions of

providing adequate safety to surrounding motor vehicles and persons, including but not limited to, Boyd while on roadways.

38. The negligent, careless, and reckless acts of Hahn, includes but is not limited to the following:

- a. hiring incompetent or unskilled employees, contractors, agents and drivers;
- b. hiring employees, contractors, agents, and drivers who did not have adequate and appropriate knowledge of driving protocol and procedures;
- c. failing to supervise their employees, contractors, agents and drivers;
- d. failing to train their employees, contractors, agents and drivers;
- e. negligently retaining incompetent or unskilled employees, contractors, agents and drivers; and
- f. failing to ensure that their employees, contractors, agents, and drivers who were employed by Hahn, had adequate and appropriate knowledge of proper hauling freight protocol and procedures, including but not limited to, traffic control

signals, devices, markings, etc., to keep the motor vehicles and person, including but not limited to, Boyd, safe.

WHEREFORE, Plaintiff Kenneth Boyd respectfully requests that the Court enter judgment in his favor against Defendants in an amount in excess of seventy-five thousand dollars (\$75,000.00) plus cost and delay damages pursuant to Pennsylvania Rule of Civil Procedure 238.

## **COUNT VII**

### **PUNITIVE DAMAGES**

#### **Kenneth Boyd vs. Lester Grome**

39. Paragraphs one (1) through thirty-nine (39) of the Complaint are incorporated herein by reference.
40. In addition to the above referenced acts, Boyd alleges the following actions and/or inactions constitute a reckless and conscious indifference towards his rights and safety and the consequences of Grome's actions further demonstrate outrageous, wanton and gross indifference as follows:

- a. knowingly and deliberately operating a large truck in such a reckless and endangering manner, that Grome knew, or should have known, that by doing so, posed an immediate and increased risk of serious injury and harm to the public, including Boyd;
  - b. knowingly and deliberately, through his negligent, reckless and careless conduct, acted in a conscious indifference to the rights and safety of the public, including Boyd;
  - c. knowingly and deliberately continued to operate the large truck when Grome knew, or should have known, that by further operation of said vehicle under such dangerous conditions, would pose a continued and increased risk of serious injury and/or harm to the public, including Boyd.
  - d. acting with a reckless disregard for the safety and well-being of Boyd; and
  - e. recklessly operating Hahn's large truck when Grome knew, or should have known, that he was not qualified to do so.
47. Boyd, alleges that the conduct of Grome, as alleged above, which is adopted herein and incorporated by reference, constitutes reckless and conscious indifference to the rights and safety of Boyd, and the consequences of Defendant, Grome's, actions (as herein described) further demonstrate outrageous, wanton, and gross indifference to the



rights of Boyd. As a result, Boyd is entitled to an award of punitive damages from Grome.

48. The aforesaid acts of Grome manifest outrageous, wanton, recklessly and consciously indifferent conduct on his part and caused serious and personal injuries. Grome as set forth in the preceding and proceeding paragraphs as such, and in view of Grome's conduct, as aforesaid, and in light of Boyd's injuries, Boyd is entitled to an award of both compensatory damages **and** punitive damages against Grome.

WHEREFORE, Plaintiff Kenneth Boyd respectfully requests that the Court enter judgment in his favor against Defendants in an amount in excess of seventy-five thousand dollars (\$75,000.00) plus cost and delay damages pursuant to Pennsylvania Rule of Civil Procedure 238.

Respectfully submitted by:

MINORA KROWIAK MUNLEY BATYKO

A handwritten signature in black ink, consisting of a large loop followed by a vertical line and a wavy line extending to the right.

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THOMAS W. MUNLEY, ESQUIRE

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Attorney for the Plaintiff, Kenneth Boyd